IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

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D.B. SPECIAL APPEAL NO.200/2003

Amar Chand

Versus

Bhoor Singh and ors.

Date of Order : 4.4.2006

PRESENT

HON'BLE MR.RAJESH BALIA, J.
HON'BLE MR. JUSTICE R.P. VYAS

Mr.Manish Pitaliya, for the appellant.
Mr.Bhavna Bhati, for the respondents.
Mr.Meenakshi Maheshwari,

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Heard the learned counsel for the parties.

This appeal is directed against the judgment of learned Single Judge dtd.8.3.2003 by which compensation awarded to the respondent – claimant has been enhanced from Rs.31,900/- to Rs.82,000/-.

In coming to this conclusion, the primary factor which has weighed with the learned Single Judge is that because of prolonged treatment required for the urethral damage and multiple fractures, the claimant – injured had to remain out of employment for about 2 and ½ years and

by considering his monthly income to be Rs.1000/-, amount awarded on the basis of loss of income was enhanced from Rs.15,000/- to Rs.50,000/- and the amount awarded for pain and suffering awarded by the Tribunal at Rs.15,000/- in lump sum was enhanced to Rs.50,000/- in lump sum. As a result of injuries, the claimant has suffered permanent disablement to the extent of 30%.

It is pointed out by the learned counsel for the appellant that as per the claim petition, the monthly income of the injured was Rs.600/- only. Hence the learned Single Judge has seriously erred in assuming the monthly income of the claimant at Rs.1000/- and awarding loss of income on that basis ignoring the fact that the admitted income as per the claim petition was Rs.600/- p.m. He also pointed out that enhancement of lump sum compensation for pain suffering from Rs.15000/- to Rs.50000/- is highly excessive, looking to the total amount of claim awarded on other ground.

However, the fact that the claimant has suffered 30% disablement is not in dispute.

We are of the opinion that so far as taking of monthly

income for computing loss of income at Rs.1000/- is apparently erroneous and award of Rs.50,000/- in lump sum for mental agony appears to be excessive considering the price index at the time when the accident had occurred i.e. in the year 1987. In the totality of the circumstances, we are of the opinion that ends of justice would be met if the compensation is restricted to Rs.70,000/- in lump sum. However, we do not find any ground to interfere with the rate of interest awarded on the enhanced compensation by the learned Single Judge.

Thus, the appeal is partly allowed. The amount of compensation awarded by the learned Single Judge at Rs.82,000/- is reduced to Rs.70,000/-. The rest of the award is maintained. No order as to costs.

(R.P.VYAS),J. **(RAJESH BALIA)J.**

SS/-